



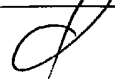
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,360	09/24/2001	Gerald J. Ware	WARI394.07A	8250
8156	7590	08/17/2004	EXAMINER	
JOHN P. O'BANION O'BANION & RITCHEY LLP 400 CAPITOL MALL SUITE 1550 SACRAMENTO, CA 95814			YEUNG, GEORGE CHAN PUI	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/963,360	Applicant(s) WARE, GERALD J. 	
	Examiner George C Yeung	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-22, 24-27, 29-33, 35-42, 44-51 and 53-68 ~~is~~ are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 59-61 ~~is~~ are allowed.
- 6) ☒ Claim(s) 19-22, 24-27, 29, 30, 32, 33, 35-42, 44-51, 53-58 and 62-68 is/are rejected.
- 7) ☒ Claim(s) 31 ~~is~~ is objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Numbering of Claims

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 68 (first occurrence) has been renumbered as claim 67.

Claim Rejections - 35 USC § 112

Claims 36 and 55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the following reason:

There is no antecedent basis for "said spheres" recited in claim 36, lines 2-3, and claim 55, lines 1-2.

Claim Rejections - 35 USC § 102

Claims 19, 24, 30, 36, 62, 64 and 68 are rejected under 35 U.S.C. 102(b) as being anticipated by Scott (U.S. Patent 4,419,834). Note that the limitation "a support substrate" recited in claims 19, 30 and 62 reads on the foraminous support 56 of Scott having a plurality of spaced-apart flights for use in separating and supporting particulate food products.

Claim Rejections - 35 USC § 103

Claims 20-22, 32, 33, 36, 38, 39 and 65-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (U.S. Patent 4,419,834) in view of Juarez et al (WO 96/35340). Scott is silent to the teaching of an ultrasound source configured to expose the food products to ultrasonic waves. Juarez et al show the conventional expedient of guiding a hot gas stream over solid food products to be dehydrated and simultaneously subjecting the products to ultrasonic waves which expel a small amount of water towards the surface of the products where this water is evaporated by the hot gas stream. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Scott such that ultrasonic waves are generated within the drying chamber as per the teaching of Juarez et al in order to expel a small amount of water towards the surface of the products, thereby allowing for more efficient drying by the circulating hot gas. It is not deemed that the features variously recited in the dependent claims would define unobvious subject matter over the teachings of Scott and Juarez et al in the absence of any new or unexpected results. The features recited in the dependent claims are considered to be obvious matters of routine optimization or structural design depending upon the type, size and quantity of the food products to be dehydrated.

Claims 35, 37 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (U.S. Patent 4,419,834) in view of Ware (U.S. Patent 5,522,156). It would have been obvious to provide the conveyor of Scott with a plurality of spheres during the drying operation since Ware teaches that it is old to employ a plurality of spheres to form a drying bed which provides for even application of particulate food products to be dried over the drying bed, thereby facilitating faster drying of the products.

Claims 25-27, 29, 40-42, 47-51, 54 and 56-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (U.S. Patent 4,419,834) in view of Juarez et al (WO 96/35340). Scott shows the claimed structure set forth in claims 40, 49 and 58 with the exception of the ultrasound source (note that the limitation "a support substrate" recited in claims 40, 49 and 58 reads on the foraminous support 56 of Scott having a plurality of spaced-apart flights for use in separating and supporting particulate food products). Juarez et al show the conventional expedient of guiding a hot gas stream over solid food products to be dehydrated and simultaneously subjecting the products to ultrasonic waves which expel a small amount of water towards the surface of the products where this water is evaporated by the hot gas stream. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Scott such that ultrasonic waves are generated within the drying zones (26, 28, 30) as per the teaching of Juarez et al in order to expel a small amount of water towards the surface of the products, thereby allowing for more efficient drying by the circulating hot gas. It is not deemed that the features variously recited in

the dependent claims would define unobvious subject matter over the teachings of Scott and Juarez et al in the absence of any new or unexpected results. The features recited in the dependent claims are considered to be obvious matters of routine optimization or structural design depending upon the type, size and quantity of the food products to be dehydrated.

Claims 44-46, 53 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (U.S. Patent 4,419,834) in view of Juarez et al (WO 96/35340) as applied to claims 25-27, 29, 40-42, 47-51, 54 and 56-58 above, and further in view of Ware (U.S. Patent 5,522,156). It would have been obvious to provide the conveyor of Scott with a plurality of spheres during the drying operation since Ware teaches that it is old to employ a plurality of spheres to form a drying bed which provides for even application of particulate food products to be dried over the drying bed, thereby facilitating faster drying of the products.

Allowable Subject Matter

Claim 31 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 59-61 are allowed.

Applicant's amendments to claims 19, 25, 30, 40, 49 and 58, claiming the limitation "to separate pieces of a food product" for the first time, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

Any inquiry concerning this communication from the examiner should be directed to Examiner George C. Yeung whose telephone number is (571) 272-1412. The examiner can generally be reached on Monday-Friday from 10:30 a.m. to 7:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

G.C. Yeung/dh
August 16, 2004



GEORGE C. YEUNG
PRIMARY EXAMINER